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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,599	01/20/2004	Gonzalo Fernandez	FA041	4273

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EXAMINER

PRICE, CARL D

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/761,599

Applicant(s)

FERNANDEZ ET AL.

Examiner

CARL D. PRICE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Response to Arguments

Applicant's arguments with respect to claims 1 and 3-12 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has amended the claims to be of a scope not previously considered. Consistent with applicant's argument that the prior art relied on in the previous office action fail to show, disclose and/or teach certain aspects of applicant's invention now recited in the claims filed on 05/26/2006, applicant has amended the claims to include the following:

(Claim 1)

(deleted) "~~for a user to regulate the operation of said oven~~"

(deleted) "~~for detecting the presence of a flame in the burner~~"

(deleted) "~~need to~~"

(amended) " .... gas flow regulating means comprising a gas thermostat that regulates the gas outflow to the burner in accordance with the temperature in the oven and a selected temperature, so that the electronic controller does not close the gas valve each time that the temperature in the oven is greater than the selected temperature and does not open the gas valve and act on the ignition module each time that the temperature in the oven is below the selected temperature."

Applicant's discussion of the meaning of the term "gas thermostat", supported by the citation of the prior art references "GB 2,283,078", "GB 935,248" and "E 2417609"(understood to be DE 2417609 or DT 2417609), is noted and found to be convincing. It is noted however that applicant has failed to provide copies of the newly cited prior art documents GB 2,283,078, GB 935,248 and DE 2417609. However, in an effort to apply full consideration to applicant's remarks copies of these documents have been obtained and added to the record by the Examiner.

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With regard to the applicant's intended application of the term "means" in the previously examined claims it is noted applicant has deleted the functional recitations (e.g. - "~~for a user to regulate the operation of said oven~~") associated with the term "means". In this regard it is therefore understood applicant does not intend to invoke the use of claim language permissions permitted under 35 USC 112, sixth paragraph. Therefore, the term "means" used along with structural limitations (e.g. - "oven operating means"; "flame sensor means") when used in applicant's claims is understood for the purpose of examination to be mean the same as, and no more than, equivalent terms, such as, "apparatus", "device" or "element".

The prior art reference(s) now relied on in the following Examiner's action address the scope of the invention now set forth in the amended claims.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims: Rejected under 35 U.S.C. 103(a)**

Claims **1-12** are rejected under 35 U.S.C. 103(a) as obvious over **US005655900 (Holzboog et al)** or **JP55-3576** in view of **US005655900A (Cacciatore)**.

**US005655900 (Holzboog et al)** shows and discloses a gas oven control and safety system including:

- oven operating means (K; “the valve will regulate to the desired temperature as indicated on dial K”) for a user to regulate the operation of the oven;
- flame sensor means (F) for detecting the presence of a flame in an oven burner;
- a gas valve (87, 213) for regulating the degree of opening or closing the supply of gas to the burner;
- an electronic controller (C, F, 169, etc.) which receives a first signal from the operating means representative of the user regulation, and a second signal from the flame sensor means representative of the existence of a flame, the electronic controller acting, in accordance with the first and second signals on the gas valve;
- gas flow regulating means (61, 63, 71) that regulate the gas outflow to the burner in accordance with the temperature in the oven and a selected temperature, so that the electronic controller does not need to close the gas valve each time that the temperature in the oven is greater than the selected temperature and does not need to open the gas valve and act to ignite the burner each time that the temperature in the oven is below the selected temperature (See column 5 lines 73- column 6, line 2; “By modulated regulation is meant that during which valve 71 in regulating moves back and forth without closing, whereby the burner flame varies gradually without danger of extinguishment”); and
- US005655900 (Holzboog et al) also does disclose the use of a timer (C) electrically associated with the control knob switch (169).

**JP55-3576** teaches, from applicant’s same gas burner oven temperature control system field of endeavor, gas flow regulating means comprising a gas filled thermostat (11) associated with an operating means control knob (16) acting on a switch (9) to regulate the gas filled thermostat.

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**US005655900A (Cacciatore)** teaches, from applicant's same gas burner oven temperature control system field of endeavor, a gas oven control and safety system including:

- oven operating means (24) for a user to regulate the operation of the oven;
- flame sensor means (22) for detecting the presence of a flame in an oven burner;
- a gas valve (16) for regulating the degree of opening or closing the supply of gas to the burner;
- an ignition module (20) for igniting a flame at the burner;
- an electronic controller (12) which receives a first signal from the operating means representative of the user regulation, and a second signal from the flame sensor means representative of the existence of a flame, the electronic controller acting, in accordance with the first and second signals, on the gas valve and on the ignition module; and
- gas flow regulating means (12, 16) that regulate the gas outflow to the burner in accordance with the temperature in the oven and a selected temperature, so that the electronic controller does not need to close the gas valve each time that the temperature in the oven is greater than the selected temperature and does not need to open the gas valve and act on the ignition module each time that the temperature in the oven is below the selected temperature.

**US005655900 (Holzboog et al)** or **JP55-3576** show and disclose the invention substantially as set forth in the claims with possible exception to:

- an "electronic" controller with an ignition module for operating the various components;
- a timer wherein the user sets the cooking time (note however the timer (C) of **US005655900 (Holzboog et al)**).

In regard to claims **1-12**, for the purpose of providing a suitable alternative electric control for the purpose of automatic ignition of the fuel gas burner and operation of various aspects of the gas appliance, it would have been obvious to a person having ordinary skill in the art to modify **US005655900 (Holzboog et al)** or **JP55-3576** to include an "electronic", or

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electronic processor based, control automatic ignition operating means, in view of the teaching of **US005655900A (Cacciatore)**. In regard to claims 8 and 9, Official Notice is taken that it is well known to provide gas burner cooking appliances with timers associated with a control knob wherein the cooking time is set according to initial operation of the cooker (See for example, JP07-275132 and JP60-235918). Indeed, **US005655900 (Holzboog et al)** does disclose the use of a timer (C) electrically associated with the control knob switch (169). Therefore, in view of that which is well known in the art and for the known purpose of regulating the time of operation for the cooking appliance, it would have been obvious to a person having ordinary skill in the art to modify the **US005655900 (Holzboog et al)** or **JP55-3576** to include a timer in the manner claimed by applicant.

### **Conclusion**

See the attached USPTO form 892 for prior art made of record and not relied upon which is considered pertinent to applicant's disclosure.

### **THIS ACTION IS MADE FINAL**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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**USPTO CUSTOMER CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is (571) 272-4880. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



CARL D. PRICE

Primary Examiner

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